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UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF NEW JERSEY
TRENTON DIVISION

In Re:

Joseph Thomas Carrano
and Ruth Elaine Carrano,

Debtors.

Bk. No. 16-22887-MBK

Chapter 13

**OPPOSITION AND RESPONSES TO
DEBTORS' MOTION TO ENFORCE
CHAPTER 13 PLAN AND COURT
ORDER OF 1/25/18; DEEMING
MORTGAGE CURRENT;
COMPELLING PAYMENT OF TAX
ESCROW AND AWARDING FEES.**

Hearing –

Date: July 24, 2018

Time: 9:00 a.m.

Place: U.S. Bankruptcy Court

402 E. State Street

Trenton, New Jersey 08608

Courtroom 8

Kondaur Capital Corporation as servicing agent of Wilmington Savings Fund Society, FSB, d/b/a Christiana Trust, not in its individual capacity but solely in its capacity as Owner Trustee of Matawin Ventures Trust Series 2017-2, secured creditor in the above-entitled Bankruptcy proceeding, its assignees and/or successors in interest (hereinafter “Kondaur”), holds the senior lien on the subject property generally described as **351 Enterprise Drive, Forked River, NJ 08731** (hereinafter “Subject Property”), and hereby submits the following opposition

and responses to the Debtors' Motion to Enforce Chapter 13 Plan and Court Order of 1/25/18; Deeming Mortgage Current; Compelling Payment of Tax Escrow and Awarding Fees (hereinafter "Debtors' Motion") proposed by Debtors:

Debtors request for relief includes requests that 1) Kondaur properly credit post petition taxes and that Kondaur pay escrowed taxes and indicates that it is in violation of the Court's order of 1/25/18, 11 U.S.C. 1327(a) and 524(i); 2) Kondaur pay all outstanding property taxes and interest (if accrued) not be charged to the Debtors and ensure all future tax payments are made timely, 3) Kondaur adjust their records to reflect the Debtor post-petition current and provide updated pay history to Debtor's Counsel; and 4) that Kondaur pay Debtors' attorney fees of \$1,000.00.

First, it is not clear what post-petition taxes were not properly credited. The Debtors' Motion is vague and Kondaur requests clarification.

Second, Kondaur agrees that the property taxes need to be paid. Kondaur has been paying the taxes since the last motion and has now paid the second half of the 2018. To the extent property taxes may incur interest, Kondaur agrees that interest should not be passed on to the Debtors. *See Declaration of Andrea Rodriguez-Tapia in support of Opposition with attached Exhibit "A."*

Third, the Debtors are not post-petition current. Since the response of Debtors' Counsel to the inquiry by Kondaur, Kondaur about delinquent payments, Kondaur has been reviewing the account. It appears that part of the confusion is because whether or not the Debtors' were current with post-petition payments was not at issue during the Debtors' prior Motion. The proof of claim clearly indicates the monthly payments were \$1,454.00; the monthly statements indicate the payments are \$1,454.00. The Debtors have been making payments of \$1,377.00. This has caused a consistent delinquency in payments and has caused payments to be placed in the suspense account. Additionally, even with the application of all payments since the filing of the case, it appears that the Debtors are delinquent approximately \$5,816.00. Rather than proceed

with a Motion for Relief, Kondaur attempted to reach out to Debtors' Counsel to resolve this issue and instead of attempting to resolve the issue without litigation, Debtors' Counsel has chosen to file the Motion at hand. *See Declaration of Andrea Rodriguez-Tapia in support of Opposition with attached Exhibit "B."*

As indicated above, Kondaur opposes the imposition of attorney fees for Debtors' pleadings as they could have been handled without filing another motion.

CONCLUSION

It is respectfully requested that the Debtors' Motion to Enforce Chapter 13 Plan and Court Order of 1/25/18; Deeming Mortgage Current; Compelling Payment of Tax Escrow and Awarding Fees be denied.

WHEREFORE, secured creditor prays as follows:

- (1) That the Debtors' Motion be denied.
- (2) For such other relief as this Court deems proper.

Dated: 7/16/2018

By: /s/ Warren S. Jones, Jr.
WARREN S. JONES, JR., ESQUIRE
Retained Counsel for Secured Creditor